

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MASSACHUSETTS LABORERS PENSION FUND,
Derivatively on Behalf of FIRSTENERGY CORP.,

Plaintiff,

v.

CHARLES E. JONES, MICHAEL J. ANDERSON,
STEVEN J. DEMETRIOU, JULIA L. JOHNSON,
DONALD T. MISHEFF, THOMAS N. MITCHELL,
JAMES F. O'NEIL, III, CHRISTOPHER D. PAPPAS,
SANDRA PIANALTO, LUIS A. REYES, LESLIE M.
TURNER, PAUL T. ADDISON, JERRY SUE
THORNTON, WILLIAM T. COTTLE, GEORGE M.
SMART, JUSTIN BILTZ, MICHAEL J. DOWLING,
JAMES F. PEARSON, STEVEN E. STRAH, K. JON
TAYLOR, ROBERT REFFNER, EBONY YEBOAH-
AMANKWAH, and JOHN DOES 1-50,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No.: 2:20-cv-05237-SDM-
CMV

Additional Captions continued on the next page.

**JOINDER OF MASSACHUSETTS LABORERS PENSION FUND IN SUPPORT OF
MOTION OF THE INSTITUTIONAL INVESTORS TO CONSOLIDATE RELATED
DERIVATIVE ACTIONS, APPOINT CO-LEAD PLAINTIFFS, AND APPOINT CO-
LEAD COUNSEL**

EMPLOYEES RETIREMENT SYSTEM OF THE CITY
OF ST. LOUIS, Derivatively on Behalf of
FIRSTENERGY CORP.,

Plaintiff,

v.

CHARLES E. JONES, MICHAEL J. ANDERSON,
STEVEN J. DEMETRIOU, JULIA L. JOHNSON,
DONALD T. MISHEFF, THOMAS N. MITCHELL,
JAMES F. O'NEIL, III, CHRISTOPHER D. PAPPAS,
SANDRA PIANALTO, LUIS A. REYES, LESLIE M.
TURNER, PAUL T. ADDISON, JERRY SUE
THORNTON, WILLIAM T. COTTLE, GEORGE M.
SMART, JUSTIN BILTZ, MICHAEL J. DOWLING,
JAMES F. PEARSON, STEVEN E. STRAH, K. JON
TAYLOR, ROBERT REFFNER, and EBONY YEBOAH-
AMANKWAH,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No.: 2:20-cv-04813-ALM-
CMV

ELECTRICAL WORKERS PENSION FUND, LOCAL
103, I.B.E.W.,

Plaintiff,

v.

MICHAEL J. ANDERSON, STEVEN J. DEMETRIOU,
JULIA L. JOHNSON, CHARLES E. JONES, DONALD
T. MISHEFF, THOMAS N. MITCHELL, JAMES F.
O'NEIL, III, CHRISTOPHER D. PAPPAS, SANDRA
PIANALTO, LUIS A. REYES, LESLIE M. TURNER,
JAMES F. PEARSON, STEVEN E. STRAH, and K. JON
TAYLOR,

Defendants,

and

FIRSTENERGY CORP.,

Nominal Defendant.

Case No.: 2:20-cv-5128-SDM-
EPD

Plaintiff Massachusetts Laborers Pension Fund (“MLPF”) respectfully submits this joinder in support of the Motion of the Institutional Investors to Consolidate Related Derivative Actions, Appoint Co-Lead Plaintiffs, and Appoint Co-Lead Counsel dated October 2, 2020 (the “Institutional Investors’ Motion”). *Employees Retirement System of the City of St. Louis v. Jones*, No. 2:20-cv-04813 (S.D. Ohio Sep. 09, 2020), ECF No. 24. Plaintiffs Employees Retirement System of the City of St. Louis and Electrical Workers Pension Fund, Local 103, I.B.E.W. (collectively, the “Institutional Investors”) moved this Court for entry of an Order: (i) consolidating seven separate derivative actions pending in this district (the “Derivative Actions”)¹ pursuant to Rule 42(a) of the Federal Rules of Civil Procedure; (ii) appointing the Institutional Investors as Co-Lead Plaintiffs; (iii) appointing Saxena White P.A. (“Saxena White”) and Bernstein Litowitz Berger & Grossmann LLP (“Bernstein Litowitz”) as Co-Lead Counsel; (iv) appointing the Law Offices of John C. Camillus LLC (“Camillus”) as Liaison Counsel; and (v) granting such other and further relief as the Court may deem just and proper. *Id.* at 2. MLPF and its counsel have conferred with counsel for the Institutional Investors and fully support the Institutional Investors’ Motion and have agreed to work cooperatively with and under the direction of proposed Co-Lead Counsel.

On October 5, 2020, MLPF filed a derivative action nominally on behalf of FirstEnergy Corp. (“FirstEnergy” or the “Company”) against certain of the Company’s directors and officers concerning the massive bribery and money laundering scheme in which FirstEnergy illegally

¹ The Derivative actions are *Bloom v. Anderson*, No. 2:20-cv-04534-ALM-KAJ (S.D. Ohio), *Stavely v. Anderson*, No. 2:20-cv-04598-EAS-CMV (S.D. Ohio), *Employees Retirement System of the City of St. Louis v. Jones*, No. 2:20-cv-004813-ALM-CMV (S.D. Ohio), *Beck v. Anderson*, No. 2:20-cv-05020-SDM-EPD (S.D. Ohio), *Electrical Workers Pension Fund, Local 103, I.B.E.W. v. Anderson*, No. 2:20-cv-05128-SDM-EPD (S.D. Ohio), *Sarnelli v. Anderson*, No. 2:20-cv-05192-SDM-KAJ (S.D. Ohio), and *Massachusetts Laborers Pension Fund v. Jones*, No. 2:20-cv-05237-SDM-CMV (S.D. Ohio).

funneled over \$60 million to public officials, including the Speaker of the Ohio House of Representatives. MLPF's derivative action involves substantially the same questions of law and fact as the pending derivative actions referenced in the Institutional Investors' Motion.² Accordingly, because consolidation of MLPF's action will promote judicial efficiency and avoid duplication, it supports consolidation of its action with the other related derivative actions under Rule 42(a) of the Federal Rules of Civil Procedure for the reasons set forth in the Institutional Investors' Motion.

MLPF also supports the appointment of the Institutional Investors and their counsel as Co-Lead Plaintiffs, Co-Lead Counsel, and Liaison Counsel, respectively. As an institutional investor itself, MLPF concurs that the Institutional Investors and their counsel are able and well-qualified to oversee and prosecute this derivative litigation based on the factors set forth in their Motion. *See* Institutional Investors' Memorandum of Law, *Employees Retirement System of the City of St. Louis v. Jones*, No. 2:20-cv-04813 (S.D. Ohio Sep. 09, 2020), ECF No. 24. As noted by the Institutional Investors, as sophisticated institutional investors they (along with their counsel) have the experience and resources to prosecute this case effectively and have prepared pleadings that are more comprehensive than those filed by the individual plaintiffs.

MLPF, which has agreed to work cooperatively at the direction of proposed Co-Lead Counsel, is represented by Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein"), which has an extremely successful record representing institutional investors in derivative actions. For example,

² On October 8, 2020, the United States Court for the Southern District of Ohio issued a "Related Case Memorandum" finding that MLPF's derivative action was related to the other derivative actions involving FirstEnergy, which were already pending before Judge Marbley. Related Case Memorandum Order, *Employees Retirement System of the City of St. Louis v. Jones*, No. 2:20-cv-04813 (S.D. Ohio Sep. 09, 2020), ECF No. 26. MLPF's derivative action, therefore, was transferred to Judge Marbley's docket as well.

Cohen Milstein represented the New York State Common Retirement Fund and the New York City Pension Funds, as court-appointed Lead Plaintiffs in a derivative action against Wynn Resorts, Ltd.'s directors and officers, where the court recently approved a settlement worth \$90 million. Further, Cohen Milstein has worked cooperatively and successfully with both Bernstein Litowitz and Saxena White over the years as all three firms have exceptional track records in achieving numerous high-value victories for stockholders.

WHEREFORE, MLPF respectfully requests that the Court grant the proposed relief in the Institutional Investors' Motion to consolidate the derivative cases, and appoint the Institutional Investors as Co-lead Plaintiffs and their counsel as Co-Lead Counsel and Liaison Counsel.

Dated: October 12, 2020

Respectfully Submitted,

/s/ Donald W. Davis, Jr

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Counsel for Massachusetts Laborers Pension Fund

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Donald W. Davis, Jr

Donald W. Davis, Jr. (#0030559)